## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

| WILLIAM N. ODOM, JR., | )                        |
|-----------------------|--------------------------|
| Plaintiff,            | )                        |
| VS.                   | ) Case No. CIV-07-1335-F |
| JOHN E. POTTER,       | )                        |
| Defendant.            | )                        |

## **ORDER**

Plaintiff moves the court to enter judgment in defendant's favor on the court's prior grant of summary judgment in defendant's favor on Count One. (Motion to enter judgment, doc. no. 17; court prior order granting dismissal of Count One, doc. no. 15.) Defendant has not responded to the motion, although the time for any response is past. Accordingly, the motion to enter is ready for determination. An order that adjudicates fewer than all of the claims alleged in an action does not end the action as to any claims. Rule 54 (b), Fed.R.Civ.P. Here, the court's order granting judgment to defendant on Count One does not adjudicate all of the claims alleged in this action. As such, the court's order grants partial summary judgment and is not a final, appealable order. As provided in 28 U.S.C. §1291, the courts of appeal have jurisdiction of appeals from "all final decisions of the district courts...." It would be improper for the court to enter judgment on Count One at this time, because a "judgment" is a decree or order from which an appeal lies, Rule 54, Fed. R. Civ. P., and no appeal lies from the court's order granting summary judgment on Count One. Plaintiff's motion to enter judgment is **DENIED**.

Dated this 19th day of May, 2008.

STEPHEN P. FRIOT

UNITED STATES DISTRICT JUDGE